



State of California
Commission on Judicial Performance
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February 28, 1995

Honorable Thomas P. Breen
Judge of the Superior Court
San Benito County Superior Court
440 Fifth Street, Room 206
Rollister, CA 95023

Dear Judge Breen:

The Commission on Judicial Performance has determined that you should be publicly reprovved for the following conduct:

"Judge Breen has engaged in a continuing pattern of failure to dispose of judicial matters promptly and efficiently.

On July 16, 1986, the commission sent Judge Breen an advisory letter concerning an unacceptable delay of 17 months in issuing a decision in American Forest Products Corporation v. Russell. The matter was submitted for decision on January 7, 1985, and a tentative decision was issued on June 2, 1986.

On July 13, 1987, Judge Breen was privately admonished by the commission for: (1) failing to rule for 31 months on a demurrer submitted on November 30, 1984, in Hospital and Institutional Workers' Union Local 250 v. San Benito Hospital District (decision issued June 24, 1987); and (2) failing to file a statement of decision for seven to nine months after submission of proposed statements of decision on September 26, 1985, and November 16, 1985, in Hospital and Institutional Workers' Union Local 250, SEIU AFL-CIO v. San Benito Hospital Workers (decision issued June 13, 1986).

On May 15, 1989, the commission sent Judge Breen another advisory letter for failure to recognize or take steps to correct serious problems in the clerk's office involving the misfiling and loss of legal documents. Judge Breen was referred in that letter to the Training & Consulting Unit of the Administrative Office of the Courts.

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Judge Breen has nonetheless continued to delay disposition of judicial matters. There have been submitted matters in his court, involving issues of child and spousal support, marital property disposition, marital dissolution and corporate dissolution, that were ready for disposition but which remained undecided for excessive periods of time, constituting inordinate delay. These cases include the following:

1. Castillo v. Castillo Bros. Feed, Inc. (Tulare County No. 145933). Judge Breen's decision after a request for statement of decision, submitted on July 1, 1992, was not issued until September 27, 1993, almost 15 months later. His ruling on a motion to tax costs, which was submitted on July 9, 1992, was issued on February 19, 1994, more than 18 months later.
2. Marriage of Arena (San Benito County No. 19816). The matter was submitted on September 21, 1993, and was not decided until November 1994, approximately 14 months later.
3. Marriage of Morrison (San Benito County No. 19116). The matter was submitted on January 6, 1993, and was not decided until January 21, 1994, more than 12 months later.
4. Marriage of Quinn (San Benito County No. 16181). The matter was originally submitted on December 13, 1991, and a memorandum decision addressing some, but not all, of the issues was not filed until April 29, 1992, four and one-half months later. The remaining issues were briefed and submitted on October 5, 1992, and findings were issued on some, but not all, of the remaining issues on July 1, 1993, almost nine months later. Objections to the proposed statement of decision were submitted on November 16, 1993, but findings were not issued until March 3, 1994, three and one-half months later.
5. Marriage of McDavid (San Benito County No. 16837). The case was submitted on June 24, 1991, and was not decided until May 11, 1994, almost three years later.

Although inordinate delay in decision making is unacceptable in all cases, Judge Breen's failure to promptly decide family law matters before him was particularly egregious in light of the harm to the parties caused thereby.

During those periods when the above-referenced cases were under submission in Judge Breen's court, and remained undecided in excess of 90 days, he executed salary affidavits pursuant to Government Code section 68210, representing under

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penalty of perjury that he had no cases under submission for periods in excess of 90 days. During those periods while there were cases pending and undecided over 90 days after they were submitted for decision, Judge Breen received the salary for his judicial office in violation of California Constitution, Article VI, section 19.

In mitigation, the commission noted Judge Breen's agreement to submit monthly reports to the commission of all cases remaining undecided as of the date of the submission of his salary affidavits. These monthly reports to the commission shall contain the date of submission for each such case and shall be submitted for the next three years from the date of this public reproof.

This public reproof is being issued with your consent.

Sincerely,


VICTORIA B. HENLEY
Director-Chief Counsel